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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/602,508	06/23/2000	Susan Bonner-Weir	10276-029001	9106

7590

07/02/2002

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EXAMINER

AFREMOVA, VERA

ART UNIT

PAPER NUMBER

1651

DATE MAILED: 07/02/2002

44

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

09/608,508

Applicant(s)

GOTKIS, YEHIEL

Examiner

Vera Afremova

Art Unit

1651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-64 is/are pending in the application.
- 4a) Of the above claim(s) 1-13, 27 and 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) 14-26 and 29-64 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of claims

Claims 14-26 are amended by applicants [Paper No. 11 field 4/11/2002].

New claims 29-64 are added by applicants [Paper No. 11 field 4/11/2002].

Claims 1-13, 27 and 28 were withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected inventions. Election was made without traverse. [Paper No. 7 filed 8/03/2001].

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- v. II
- I. Claims 14-2~~6~~ and 29-40, drawn to a first method of obtaining pancreatic islet cells, classified in class 435, subclass 377, for example.
- v. II
- II. Claims 14-2~~6~~ and 41-~~64~~, drawn to a second method of obtaining pancreatic cells, classified in class 435, subclass 373, for example.

The inventions are distinct, each from the other because of the following reasons:

Methods of Group I and Group II are distinct because they require different active steps which encompasses the use of different cellular materials as claimed. For example: The starting material in the Group I method is "pancreatic duct or exocrine cells" (see claim 29) as claimed and the starting material in the Group II method "adult or differentiated pancreatic cells substantially free of islet cells" as claimed (see claim 41). Therefore, the claimed method require different step of treating different cellular compositions. Thus, the claimed subject matter is distinct as claimed.

Art Unit: 1651

The several inventions listed above are independent and distinct from one another as they have acquired a separate status in the art and require independent searches, particularly with regard to the literature searches. Clearly, a reference which would anticipate one of the above groups would not necessarily anticipate or even make obvious the other group. Because these inventions are distinct for the reasons given above restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vera Afremova whose telephone number is (703) 308-9351. The examiner can normally be reached on 9.30 am - 6.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn can be reached on (703) 308-4743. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4242 for regular communications and (703) 308-4242 for After Final communications.

Application/Control Number: 09/608,508
Art Unit: 1651

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Vera Afremova
AU 1651
June 26, 2002

V.A.


IRENE MARX
PRIMARY EXAMINER